

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF TEXAS
HOUSTON DIVISION**

EMMA NICOLE LOPEZ,)	
)	Case No. 4:18-CV-01420
Plaintiff,)	
)	Judge
v.)	
)	Magistrate Judge
SHERIFF EDWARD GONZALEZ,)	
Officially, P.O. DANIEL SANCHEZ,)	JURY DEMAND
JOHN DOE OFFICERS, Individually,)	
HARRIS COUNTY SHERIFF'S)	
OFFICE, and KATY INDEPENDENT)	
SCHOOL DISTRICT, a municipal)	
corporation,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT

NOW COMES the Plaintiff, EMMA NICOLE LOPEZ by and through her attorneys, Gregory E. Kulis & Associates, Ltd. and Law Office of Michael J. Edwards, II, P.C., complaining against the Defendants, SHERIFF EDWARD GONZALEZ, Officially, P.O. DANIEL SANCHEZ, JOHN DOE OFFICERS, Individually, HARRIS COUNTY SHERIFF'S OFFICE and THE KATY INDEPENDENT SCHOOL DISTRICT, a municipal corporation, as follows:

COUNT I – FALSE ARREST

1. This action is brought pursuant to the Laws of the United States Constitution, specifically, 42 U.S.C. §1983 and §1988, and the laws of the State of Texas, to redress deprivations of the Civil Rights of the Plaintiff, EMMA NICOLE LOPEZ accomplished by acts and/or omissions of Defendants, SHERIFF EDWARD GONZALEZ, Officially, P.O. DANIEL SANCHEZ, JOHN DOE OFFICERS,

Individually, HARRIS COUNTY SHERIFF'S OFFICE, HARRIS COUNTY and THE THE KATY INDEPENDENT SCHOOL DISTRICT, a municipal corporation, committed under color of law.

2. Jurisdiction is based on Title 28 U.S.C. §1343 and §1331 and supplemental jurisdiction of the State of Texas

3. The Plaintiff, EMMA NICOLE LOPEZ, is a twenty-six year old female and was at all relevant times, a resident of Harris County in the State of Texas.

4. At all relevant times, the Defendant, P.O. DANIEL SANCHEZ was a duly appointed Police Officer with THE KATY INDEPENDENT SCHOOL DISTRICT acting within the scope of his employment and under color of law.

5. At all relevant times EdGonzalez was the Sheriff of Harris County and responsible for setting policies for the personnel and operations of the Harris County jail.

6. The KATY INDEPENDENT SCHOOL DISTRICT is a statutorily created municipal entity empowered to enforce the laws of the state of Texas and to serve and protect citizens in the city.

7. On or about March 1, 2018, the Plaintiff, EMMA NICOLE LOPEZ, was driving in the vicinity of Breezy Hill and Mason Road in Katy, Texas.

8. The Defendant, P.O. DANIEL SANCHEZ pulled over the Plaintiff for an alleged traffic violation.

9. The Plaintiff, EMMA NICOLE LOPEZ was not committing a jail-able offense.

10. The Defendant thereafter called for a K-9 drug dog.

11. The Defendant allegedly found approximately a half gram of marijuana in the vehicle.

12. The Defendant, P.O. DANIEL SANCHEZ thereafter charged the Plaintiff with possession of marijuana in a drug-free zone.

13. There were no facts to support the Plaintiff, EMMA NICOLE LOPEZ for said charge and to place her into arrested custody.

14. Material facts alleged and relayed to the Harris County District Attorney Intake Desk by P.O. DANIEL SANCHEZ were false.

15. At relevant times, the Defendant was acting pursuant to the customs and policies of THE KATY INDEPENDENT SCHOOL DISTRICT.

16. The actions of the Defendant, P.O. DANIEL SANCHEZ were intentional, willful, wanton and with malice.

17. Said actions of the Defendant, P.O. DANIEL SANCHEZ violated the Plaintiff, EMMA NICOLE LOPEZ'S Fourth and Fourteenth Amendment Rights of the United States Constitution and were in violation of said rights protected by 42 U.S.C. §1983.

18. As a direct and proximate consequence of said conduct of the Defendant, P.O. DANIEL SANCHEZ individually, the Plaintiff, EMMA NICOLE LOPEZ suffered violations of her constitutional rights, emotional anxiety, fear, humiliation, monetary loss, embarrassment, fear, pain and suffering and future pain and suffering.

WHEREFORE, the Plaintiff, EMMA NICOLE LOPEZ, prays for judgment in her favor and against the Defendant, P.O. DANIEL SANCHEZ for a reasonable amount in compensatory damages, punitive damages, plus attorneys' fees and costs.

COUNT II – MONELL CLAIM
THE KATY INDEPENDENT SCHOOL DISTRICT, TEXAS

1-16. The Plaintiff, EMMA NICOLE LOPEZ, hereby realleges and incorporates her allegations of paragraphs 1-16 of Count I as her respective allegations of paragraphs 1-16 of Count II as though fully set forth herein.

17. The actions of Defendant, P.O. DANIEL SANCHEZ were conducted pursuant to unwritten customs, practice and policy to overcharge an arrestee with drugs / narcotics despite there being no ground to support these serious charges.

18. There were no facts to support probable cause to arrest the Plaintiff and take her into custody.

19. As a result of this unwritten custom practice and policy of THE KATY INDEPENDENT SCHOOL DISTRICT, the Defendant, P.O. DANIEL SANCHEZ charged the Plaintiff with a misdemeanor drug charge.

20. The charges against the Plaintiff were false.

21. At all relevant times, the Defendant, P.O. DANIEL SANCHEZ, was acting pursuant to these customs, practices and policies of THE KATY INDEPENDENT SCHOOL DISTRICT.

22. Said actions of the Defendant, P.O. DANIEL SANCHEZ, violated the Plaintiff, EMMA NICOLE LOPEZ'S Fourth and Fourteenth Amendment Rights of the United States Constitution and were in violation of said rights protected by 42 U.S.C. § 1983.

23. As a direct and proximate consequence of said conduct of the Defendant, P.O. DANIEL SANCHEZ, acting pursuant to the customs, practices and policies of THE KATY INDEPENDENT SCHOOL DISTRICT, the Plaintiff, EMMA NICOLE LOPEZ,

suffered violations of her constitutional rights, emotional anxiety, fear, humiliation, monetary loss, pain and suffering and future pain and suffering.

WHEREFORE, the Plaintiff, EMMA NICOLE LOPEZ, prays for judgment in her favor and against the Defendant, THE KATY INDEPENDENT SCHOOL DISTRICT for a reasonable amount in compensatory damages, plus attorneys' fees and costs.

COUNT III – EXCESSIVE FORCE

1-17. The Plaintiff, EMMA NICOLE LOPEZ hereby realleges and incorporates her allegations of paragraphs 1-17 of Count I, as her respective allegations of paragraphs 1-17 of Count III as though fully set forth herein.

18. The Defendant, OFFICER JOHN DOE #1 at all relevant times was working for the Harris County Sheriff's Department and at the Harris County Jail, At all relevant times the Defendant, OFFICER JOHN DOE #1 was acting within his scope of employment.

19. At all relevant times the Defendant, OFFICER JOHN DOE #1 was acting under color of law

20. After being arrested, the Plaintiff was booked in the Harris County Jail.

21. While in a holding cell, the Defendant, OFFICER JOHN DOE #1 entered the holding cell and handcuffed the Plaintiff.

22. The Defendant OFFICER JOHN DOE #1, thereafter raped her.

23. Said actions were excessive and unreasonable.

24. Said actions of the Defendant, OFFICER JOHN DOE #1 were intentional, willful and wanton.

25. The Plaintiff, EMMA NICOLE LOPEZ begged the Defendant, OFFICER JOHN DOE #1 to stop, but he refused.

26. Said actions were in violation of the Plaintiff's right to freedom from excessive force and constituted a violation of her Fourth and Fourteenth Amendment Rights of the United States Constitution.

27. As a result of the actions of the Defendant, OFFICER JOHN DOE #1, the Plaintiff suffered severe emotional distress, embarrassment, insult, fear, anxiety, pain and suffering, future and permanent emotional and psychological pain and suffering

WHEREFORE, the Plaintiff, EMMA NICOLE LOPEZ, prays for judgment in her favor and against the Defendant, OFFICER JOHN DOE #1 in excess of one million (\$1,000,000.00) dollars compensatory damages, punitive damages, plus attorneys' fees and costs.

COUNT IV - INDEMNIFICATION

1-31. The Plaintiff, EMMA NICOLE LOPEZ, hereby realleges and incorporates her allegations of paragraphs 1-31 of Counts I through III as her respective allegations of paragraphs 1-31 of Count IV as though fully set forth herein.

20. Texas law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

21. The Defendants, P.O. DANIEL SANCHEZ was at all times relevant an employee of the KATY INDEPENDENT SCHOOL DISTRICT, and OFFICER JOHN DOE #1 was at all times relevant an employee of THE HARRIS COUNTY SHERIFF'S DEPARTMENT, respectively, who acted within the scope of their employment in

committing the misconduct described herein.

WHEREFORE, should the individual Defendants, be found liable for any of the acts alleged above, the Defendants, KATY INDEPENDENT SCHOOL DISTRICT and the HARRIS COUNTY SHERIFF'S DEPARTMENT, would be liable to pay the Plaintiff, EMMA NICOLE LOPEZ any judgment obtained against the Defendants.

**COUNT V – MONELL CUSTOM PRACTICE POLICY AND PROCEDURES
HARRIS COUNTY SHERIFF'S DEPARTMENT**

1-26. The Plaintiff realleges and incorporates the allegations contained in paragraphs 1-26 of Counts III as her respective allegations of paragraphs 1-26 of Count V as though fully set forth herein.

27. The Harris County Sheriff's Department and SHERIFF EDWARD GONZALEZ, Officially have a duty and obligation to supervise, discipline and train its officers to prevent them from violating citizens' rights through the power and authority they have.

28. The Harris County Sheriff's Department has a duty and obligation to protect pre-trial detainees from unlawful attacks.

29. The Harris County Jail has a long history of attacks and violence within the facility. In 2013, a U.S. Department of Justice study found that one of the Harris County Jail units had one of the worst sexual assault rates in the country.

30. The Defendant, HARRIS COUNTY SHERRIFF'S DEPARTMENT has failed to monitor, supervise or train their officers which have therefore given them the comfort and sense that they can violate citizens' rights and not be disciplined.

31. This is evidenced in the number of deaths, attacks, and civil rights complaints filed with the jail.

32. This lack of supervision and training fosters a climate in the ranks of personnel at the Harris County Jail that if a citizen's rights are violated they do not have to report it, can look the other way and maintain a code of silence.

33. As a result of the customs, policies and practices for the Harris County Sheriff's Department and the Sheriff, EDWARD GONZALEZ, the Defendant John Doe Officers ignored the rights of the Plaintiff herein.

34. As a result of the customs, policies and practices of the Harris County Sheriff's Department and the SHERIFF EDWARD GONZALEZ, the Defendants, John Doe Officers failed to report the unlawful actions committed against the Plaintiff and facilitated his actions.

35. As a result thereof the Plaintiff's rights were violated in a long standing climate at the Harris County Jail in violating citizens' rights.

36. As a result thereof the Plaintiff's rights were violated and she suffered fear, insult, pain, suffering, emotional distress, embarrassment and future pain and suffering.

WHEREFORE, the Plaintiff, EMMA NICOLE LOPEZ, prays for judgment in her favor and against the Defendants, HARRIS COUNTY SHERIFF'S DEPARTMENT and SHERIFF EDWARD GONZALEZ, Officially, in excess of one million (\$1,000,000.00) dollars compensatory damages, plus attorneys' fees and costs.

**COUNT VI - BATTERY/INTENTIONAL INFILCTION OF
EMOTIONAL DISTRESS**

1-22. The Plaintiff realleges and incorporates the allegations contained in paragraphs 3-25 of Count III as her respective allegations of paragraphs 1-22 of Count VI as though fully set forth herein.

23. The actions of Defendant, OFFICER JOHN DOE #1 were not consensual, but offensive.

24. The actions of the Defendant, OFFICER JOHN DOE #1 were done with intent to cause physical harm, psychological harm, anxiety and emotional distress; and in fact, did so.

25. As a result of the actions of the Defendant, OFFICER JOHN DOE #1, the Plaintiff suffered severe emotional distress, embarrassment, insult, fear, anxiety, pain and suffering, future and permanent emotional and psychological pain and suffering

WHEREFORE, the Plaintiff, EMMA NICOLE LOPEZ, prays for judgment in her favor and against the Defendant, OFFICER JOHN DOE #1 in excess of one million (\$1,000,000.00) dollars compensatory damages, punitive damages, plus attorneys' fees and costs.

JURY DEMAND

The Plaintiff, EMMA NICOLE LOPEZ hereby requests a trial by jury.

Respectfully submitted,

/s/ Gregory E. Kulis

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